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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

JOSEPH D. MILANOWSKI,

Debtor.

Case No. BK-S-07-13162 LBR

(Chapter 11) Involuntary

Amended Joint Pretrial Order

Pretrial: July 27, 2007
Time: 9:30 a.m.

1 Following pretrial proceedings in this cause,

2 **I. STATEMENT OF THE CASE**

3 **A. Nature of the Action**

4 The USACM Liquidating Trust (the “USACM Trust”), USA Capital IT IS
5 ORDERED:

6 Diversified Trust Deed Fund, LLC (“DTDF”), and Nevada State Bank (“NSB”),
7 filed their involuntary bankruptcy petition against Joseph Milanowski (“Debtor”) or
8 (“Milanowski”) on May 29, 2007 and thereafter, NV Hesperia Investors, LLC
9 (“Hesperia”) filed its joinder on June 29, 2007 and Compass SA SPE LLC and Compass
10 Financial Partners LLC (“Compass”) (collectively the USACM Trust, DTDF, NSB,
11 Hesperia and Compass are “Petitioning Creditors”) filed its joinder on July 3, 2007.

12 Debtor filed his amended answer on July 17, 2007 pursuant to the Court’s
13 stipulated Discovery Plan and Scheduling Order entered on July 13, 2007.

14 **B. Contentions of the Parties**

15 **1. USACM Trust**

16 The USACM Trust is the servicer with respect to three loans, as successor to
17 USACM and as described below.

18 Geoffrey L. Berman, Trustee of the USACM Trust, personally met with Scott Bice
19 of the Mortgage Lending Division of the State of Nevada as well as MLD counsel. With
20 MLD consent, USACM and the USACM Trust sought and this Court entered the Order
21 Granting Second Joint Motion For Order For Implementation Of Confirmed Plan on
22 March 5, 2007 (the “Second Order”). That order provides in paragraph 5 that the USACM
23 Trust is authorized to service the specific loans for which that responsibility was
24 subsequently transferred under the Plan, without otherwise complying with MLD or
25 Escrow Licensing requirements of the State of Nevada. The Trust nevertheless provides
26

1 Mr. Bice with informal reporting on the status of loan collections as a courtesy on the
2 following loans:

3 **Placer Vineyards 1 Loan**

4 The Placer Vineyards first loan ("Placer 1") is owed by Placer County Land
5 Speculators, LLC ("Placer") to about 343 investors. Placer 1 was originated on December
6 10, 2004 and matured on June 20, 2006. The loan is evidenced by a Promissory Note
7 Secured by a Deed of Trust dated December 10, 2004, with an original principal amount
8 of \$27,500,000, which could be increased by future advances to \$31,500,000, as thereafter
9 modified.

10 Interest accrues at the non-default rate of 12.5%. Upon default, interest accrues at
11 the default rate of 20% per annum. In addition, there is a late charge of 5% of any sum
12 that is past due under the Note. The Loan has been in default for some time due to failure
13 to make payments and maturity of the Loan without repayment.

14 The USACM Trust has made demand upon Placer for repayment of the Placer 1
15 Loan. No payment has been received.

16 **Placer Vineyards 2 Loan**

17 The Placer Vineyards second loan ("Placer 2") is owed by Placer to about 118
18 investors. Placer 2 was originated on December 10, 2004, and matured on June 20, 2006.
19 This loan is evidenced by a Promissory Note Secured by a Deed of Trust dated December
20 10, 2004, with an original principal amount of \$6,500,000.

21 Interest accrues at the non-default rate of 16%. Upon default, interest accrues at the
22 default rate of 20% per annum. In addition, there is a late charge of 5% of any sum that is
23 past due under the Note. The Loan has been in default for some time due to failure to
24 make payments and maturity of the Loan without repayment.

25 The USACM Trust has made demand upon Placer for repayment of the Placer 2
26 Loan. No payment has been received.

According to the business records of the Trust, the outstanding balance of Placer 1 and 2 are as follows (assuming no payments are received before the end of the current month):

	Placer Vineyards 1st	Placer Vineyards 2nd
As of 7/31/2007		
Principal	\$31,500,000.00	\$6,500,000.00
Regular Interest	\$7,616,342.82	\$1,990,158.68
Default Interest	\$4,590,002.88	\$499,767.00
Late Fees	\$281,656.01	\$76,260.86
Other Fees		
Total	\$43,988,001.71	\$9,066,186.54

The USACM Trust holds an Unconditional Guaranty executed by Thomas A. Hantges ("Hantges") and Milanowski of the obligations of Placer on Placer 1, which was acknowledged on December 14, 2004.

The USACM Trust holds an Unconditional Guaranty executed by Hantges and Milanowski of the obligations of Placer on Placer 2, which was acknowledged on December 14, 2004.

The USACM Trust has made demand upon the guarantors, including Milanowski, for repayment of the Placer 1 and 2 Loans and has not received any payment.

USA Investors VI, LLC aka Hotel Marquis (or Hotel Zoso) Loan

USA Investors VI, LLC, a Nevada limited liability company ("Investors VI") is obligated to certain direct Lenders represented by the USACM Trust as servicer pursuant to, among other things:

- o Construction Loan Agreement dated as of March 29, 2004
- o Promissory Note Secured by Deed of Trust dated March 29, 2004, in the original principal amount of \$10,466,000.

Pursuant to a Loan Extension Agreement dated as of February 5, 2006, the maturity date of the loan was extended to March 29, 2006. The Loan has been in default for some time due to failure to make payments and maturity of the Loan without repayment.

Interest accrues at the non-default rate of 13%. Upon default, interest accrues at the default rate of 20% per annum. In addition, there is a late charge of 5% of any sum that is past due under the Note.

The USACM Trust has made demand upon Investors VI for repayment of Loan. No payment has been received.

According to the business records of the Trust, the outstanding balance of the Loan is as follows as of July 31, 2007 (again assuming no payments are made before the end of the month):

**Marquis Hotel
As of 7/31/2007**

Principal	\$13,500,000.00
Regular Interest	\$5,854,196.19
Default Interest	\$3,970,240.97
Late Fees	\$464,164.48
Other Fees	
Total	\$23,788,601.64

Investors VI is a debtor in a chapter 11 business bankruptcy case pending in the United States Bankruptcy Court for the District of Nevada, Case No. 07-12377, consolidated with a prior involuntary case no. 06-13925.

On July 16, 2007, Investors VI filed Debtor's Motion For Order (i) Approving Sales Protections To APHM Zoso, LLC, a Delaware Limited Liability Company, As Provided For In Agreement For Purchase And Sale Of Real Estate (And Joint Escrow Instructions); (ii) Approving Procedures For Soliciting Higher And Better Offers, And Determining Highest And Best Offer; (iii) Setting Hearing To Select Highest And Best Offer, And To Approve Sale Of Assets And The Assumption And Assignment Of Leases And Executory Contracts; And (iv) Granting Other Relief And Preliminary Report Of

1 Marketing (“Sales Procedures Motion”). The Sales Procedures Motion and exhibits
2 thereto represent that the purchaser will acquire the collateral for the Investors VI Loan for
3 \$25,117,500 in cash plus other consideration. It would appear that there is sufficient
4 consideration in this offer, if approved by the Court and if the transaction closes on the
5 terms stated, to pay the Investors VI Loan in full. However, bankruptcy counsel for
6 Investors VI has suggested that Investors VI may have no obligation to pay Default
7 Interest to the Trust under certain circumstances, which assertion the USACM Trust
8 disputes.

9 The USACM Trust holds an Unconditional Repayment and Completion Guaranty
10 executed by USA Investment Partners, LLC (“USAIP”), Hantges and Milanowski of the
11 obligations of Investors VI, which was acknowledged on March 26, 2004.

12 The USACM Trust has made demand upon the guarantors, including Milanowski,
13 for repayment of the Investors VI aka Hotel Marquis (now Hotel Zoso) Loan and has not
14 received payment.

15 **Other Claims:**

16 **Milanowski Receivable.** Mesirow Financial Interim Management investigated the
17 books and records of USACM and caused schedules of assets to be filed. USACM’s
18 schedules filed June 23, 2006 [Docket No. 784] reflect that Milanowski owed USACM
19 \$7,097.50 as a shareholder account receivable. No payment has been received to date.

20 The USACM Trust owns each of the claims described in this pretrial order pursuant
21 to the terms of the confirmed Plan, made demand on Hantges and Milanowski for
22 repayment; and has not received any payment or response.

23 **2. DTDF**

24 DTDF owns 100% of the 10-90 loan, which is a non-performing loan with a
25 principal balance of \$55,113,781 and accrued interest of tens of millions of dollars.

26 The primary loan transaction documents for the 10-90 Loan are as follows:
27

The “USAIP Loan Documents”

a. Loan Agreement dated as of April 10, 2002, between USA Investment Partners, LLC (“USAIP”), as borrower, and 10-90, Inc., as lender (as amended by the First Amendment referred to below, the “USAIP Loan Agreement”)

b. Promissory Note dated as of April 10, 2002, made by USAIP as borrower in favor of 10-90, Inc. as lender (as amended by the USAIP First Amendment referred to below, the “USAIP Note”);

c. Guaranty dated as of April 10, 2002, in favor of 10-90, Inc. as lender given by Joseph A. Milanowski (“Milanowski”), as guarantor and Thomas A. Hantges (“Hantges”) as guarantor (“Guaranty”);

d. First Amendment to Loan Documents dated as of October 6, 2003, between USAIP and 10-90, Inc. (the “USAIP First Amendment”);

The “10-90, Inc. Loan Documents”

e. Revolving Loan and Security Agreement dated as of April 12, 2002, between 10-90, Inc., as borrower, and DTDF, as lender (as amended by the 10-90 First Amendment referred to below, the “10-90 Loan Agreement”);

f. Promissory Note Secured by Deed of Trust in the face amount of \$40,000,000 (later increased to \$75,000,000 pursuant to the 10-90 First Amendment) dated April 12, 2002, executed by 10-90, Inc. in favor of DTDF (as amended by the 10-90 First Amendment, the “10-90 Note”);

g. First Amendment to Loan Documents dated as of October 6, 2003, between 10-90, Inc. and DTDF (the “10-90 First Amendment”);

The Collateral Assignment of the USAIP Loan Documents to DTDF

h. Collateral Assignment of Beneficial Interest dated as of April 12, 2002, between 10-90, Inc. as assignor and DTDF as assignee (the “DTDF Collateral

1 Assignment”) whereby 10-90, Inc. as borrower collaterally assigned to DTDF all of the
 2 rights of 10-90, Inc. as lender in the USAIP Loan Documents;

3 ***The Collapse of the Two Transactions Into One Transaction***

4 i. Agreement for Transfer of Promissory Note dated as of January 1, 2005,
 5 between 10-90, Inc. as transferor and DTDF as transferee and consented to by USAIP as
 6 the obligor on the note to be transferred, and Milanowski as guarantor and Hantges as
 7 guarantor, whereby 10-90, Inc. transferred to DTDF the USAIP Note and other USAIP
 8 Loan Documents (the “Transfer Agreement”); and

9 ***The Default Letter***

10 j. Default Letter dated as of August 7, 2006, from USACM to USAIP,
 11 Milanowski and Hantges formally notifying such parties of their defaults in connection
 12 with the 10-90 Loan.

13 The 10-90 Loan is the largest loan in the entire USACM portfolio by far.
 14 According to the documentation of the 10-90 Loan, the 10-90 Loan was originated in
 15 April of 2002, and was secured by an assignment by the borrower, 10-90, Inc. of its
 16 interest in a nearly contemporaneous loan made by 10-90, Inc. to USAIP. It appears that
 17 10-90, Inc. was used as a straw man for USAIP since the books and records FTI has
 18 reviewed evidence the fact that 10-90, Inc. received funds from DTDF and
 19 contemporaneously transferred the funds to USAIP.

20 The 10-90, Inc. Loan was formally transferred from 10-90, Inc. to USAIP on
 21 January 1, 2005, thereby eliminating the participation of 10-90, Inc. and with the result
 22 that USAIP was thereafter the direct borrower of DTDF.¹

23
 24 ¹ DTDF believes that it was defrauded in connection with its funding of the 10-90 Loan, however,
 25 trial on the involuntary petition is focused solely on the contractual attributes of DTDF’s
 26 claim against USAIP and Milanowski and Hantges and does not deal with the additional
 27 claims that DTDF may have against them and others as a result of the massive fraud that
 caused DTDF to enter into the 10-90 Loan transaction and to successively make further
 advances on the 10-90 Loan. Milanowski does not accept these allegations.

1 The 10-90 Loan is currently in default and is fully due and payable. No response
2 has been received to an August, 2006 Default Letter.

3 Under the terms of the Guaranty, Milanowski and Hantges are liable for repayment
4 of the 10-90 Loan independently from USAIP's liability for repayment of the 10-90 Loan
5 and the guarantors can be pursued whether or not an action against USAIP is pursued
6 (paragraph 4 of the Guaranty) and Milanowski and Hantges specifically waived any right
7 or defense that would require the lender to first pursue the borrower, USAIP, or exhaust
8 the lender's remedies against the borrower, or to first proceed against any collateral
9 pledged for the 10-90 Loan (paragraph 6 (viii) of the Guaranty).

10 In all the documentation that FTI has reviewed bearing upon the 10-90 Loan,
11 DTDF has discovered no documentation indicating that USAIP disputes its liability for the
12 10-90 Loan or that Milanowski or Hantges dispute their liability as guarantors on the loan,
13 nor any indication that the principal amount of the loan is subject to any dispute
14 whatsoever.

15 **3. NSB**

16 Nevada State Bank (the "Bank") holds an unsecured claim against the Debtor in an
17 amount exceeding \$300,000, pursuant to the guaranty of the loan described herein.

18 In or about April, 2000, the Bank extended an unsecured commercial line of credit
19 in the original maximum principal amount of \$250,000 to USACM (the "Loan"). The
20 Loan is evidenced by a promissory note (the "Note") dated April 17, 2000, and was
21 guaranteed by, inter alia, the Debtor herein (the "Guaranty"). The making of the Loan was
22 contingent upon the execution of the Guaranty.

23 Prior to the maturity of the Loan, the Debtor requested the original maturity date of
24 April 17, 2001, be extended. The Bank granted this request and extended the maturity
25 date of the Loan to April 17, 2002. A second extension was requested and granted,
26 making the Loan due and payable on June 17, 2003. The Guaranty continued in full force
27

1 and effect throughout the duration of the Loan, including any amendments to the maturity
2 date, and was acknowledged as recently as August 3, 2005. The Bank has received no
3 revocation of the Guaranty, and the Loan remains open.

4 The Bank has sent written demand for payment of the Loan to the Debtor and the
5 other Guarantors of the Loan, and has received no payment to date. The principal amount
6 due and owing on the Loan is \$300,000; interest accrued as of July 24, 2007 is \$40,320.83.
7 The Bank has incurred, and continues to incur, significant costs and fees associated with
8 collecting on the Loan, which costs and fees are also recoverable under the Note and
9 Guaranty.

10 **4. Hesperia**

11 NV Hesperia Investors, LLC ("Hesperia") purchased six promissory notes
12 (collectively, the "Notes") from Vineyard Bank that were matured debts of Southern
13 California Land Development, LLC ("Borrower") and guaranteed by Milanowski, the
14 Joseph D. Milanowski Trust and Hantges.

15 Vineyard Bank assigned the Notes to Hesperia on March 30, 2007.

16 The unpaid balance of the Notes, including accrued and unpaid default interest,
17 unpaid late fees and costs totals \$3,419,727.02 as of June 10, 2007.

18 USAIP is the maker of a Promissory Note dated September 27, 2004, in the original
19 principal amount of \$560,000.00, payable to the order of Vineyard Bank. Borrower
20 assumed the obligation by an Assumption Agreement dated December 27, 2005.

21 USAIP is the maker of a Promissory Note dated September 27, 2004, in the original
22 principal amount of \$800,000.00, payable to the order of Vineyard Bank. Borrower
23 assumed the obligation by an Assumption Agreement dated December 27, 2005.

24 USAIP is the maker of a Promissory Note dated September 27, 2004, in the original
25 principal amount of \$685,000.00, payable to the order of Vineyard Bank. Borrower
26 assumed the obligation by an Assumption Agreement dated December 27, 2005.
27

1 Borrower is the maker of a Promissory Note dated March 8, 2005, in the original
2 principal amount of \$250,000.00, payable to the order of Vineyard Bank.

3 Borrower is the maker of a Promissory Note dated March 8, 2005, in the original
4 principal amount of \$239,500.00, payable to the order of Vineyard Bank.

5 Borrower is the maker of a Promissory Note dated March 8, 2005, in the original
6 principal amount of \$212,500.00, payable to the order of Vineyard Bank.

7 Milanowski absolutely and unconditionally guaranteed the obligations of Borrower
8 to Vineyard Bank pursuant to a Commercial Guaranty dated March 8, 2005.

9 Milanowski absolutely and unconditionally guaranteed the obligations of Borrower
10 to Vineyard Bank pursuant to a Commercial Guaranty dated December 27, 2005.

11 The Joseph D. Milanowski 1998 Trust absolutely and unconditionally guaranteed
12 the obligations of Borrower to Vineyard Bank pursuant to a Commercial Guaranty dated
13 March 8, 2006.

14 Hesperia acquired all of Vineyard Bank's rights against Joseph D. Milanowski and
15 his trust for good and valuable consideration.

16 Hesperia purchased all of Vineyard Bank's right, title and interest in the Notes as
17 an investment and not for the purpose of commencing the above-captioned involuntary
18 case.

19 Hesperia is unaware of any condition to Joseph D. Milanowski's obligations to
20 Hesperia. Hesperia has not waived or modified any of Milanowski's obligations as
21 described in this Declaration.

22 **5. Compass**

23 On February 16, 2007 (the "Closing Date"), Compass acquired certain of the assets
24 of various of USA Commercial Mortgage Company, USA Capital First Trust Deed Fund,
25 and their other affiliated debtors (collectively such debtors are referred to as the "USA
26 Debtors", and their bankruptcy cases as the "USA Bankruptcy Cases") (collectively, the
27

1 “Assets”) in exchange for substantial cash consideration. The terms of Compass’
2 acquisition of the Assets were set forth in an Asset Purchase Agreement, dated December
3 8, 2006 (the “APA”), which was approved by the Bankruptcy Court pursuant to that
4 certain Order Confirming the Debtors’ Third Amended Joint Chapter 11 Plan of
5 Reorganization entered in the USA Bankruptcy Cases on January 8, 2007 (the
6 “Confirmation Order”). Subsequent to the Closing Date, Compass has worked in its
7 capacity as loan servicer to the loans which were the subject of the APA.

8 Compass owns the loan servicing rights for the following six loans, which are
9 collectively called the “Loans.” Each of the Loans was a loan that was subject to the APA
10 in the USA Bankruptcy Cases. Each of the Loans is evidenced by the promissory notes,
11 all of which are or were secured by real estate and in some cases other property, located
12 either in California, Arizona, or Nevada, and such notes are hereinafter called the “Notes.”
13 There is a maturity default under each of the Notes other than the Copper Sage Note, and
14 all amounts are presently due and owing under all of the Notes other than the Copper Sage
15 Note. Following is a listing of each of the Notes, and the amounts due under each of the
16 Notes as of June 1, 2007. Under each of the Loans, and in addition to its rights as owner
17 of the loan servicing, Compass holds a fractional interest in the amounts listed below.
18 Each of the Notes was in the files and records transferred to Compass at the time of the
19 Closing of the purchase by Compass of the Assets. Compass holds the original of each of
20 the Notes, which are described in further detail as follows:

21 **Bundy Canyon.** That certain Promissory Note Secured by Deed of Trust, dated
22 September 28, 2005, in the original principal amount of \$4,050,000.00. This loan is
23 secured by a deed of trust on real property located in the State of California. As of June 1,
24 2007, the total amount due under such note, exclusive of attorneys’ fees and other possible
25 costs due under such note or loan documents in relation to such note was \$5,518,397.00.
26 Such amount consists of the following: unpaid principal in the amount of \$4,250,000.00;
27

1 unpaid interest in the amount of \$1,007,469.00; and unpaid late charges of \$260,928.00.
2 Compass holds the following fractional interest in the Bundy Canyon Loan and the note
3 which evidences that loan: 0.7059%, or an interest in \$30,000.00 of the principal amount
4 of such loan.

5 **Copper Sage Commerce Center Phase II.** That certain Promissory Note Secured
6 by Deed of Trust, dated March 1, 2006, in the original principal amount of \$3,550,000.00.
7 The loan evidenced by the foregoing note shall be referred to as the "Copper Sage Loan."
8 The Copper Sage Loan is secured by real property located in the State of Nevada. As of
9 June 1, 2007, the total amount due under such note, exclusive of principal, attorneys' fees,
10 and other possible costs due under such note or loan documents in relation to such note,
11 consists of the following amounts: unpaid interest in the amount of \$825,333.50; unpaid
12 late charges of \$40,157.23; and unpaid origination fees in the amount of \$56,500.00.
13 Compass holds the following fractional interest in the Copper Sage Loan and the note
14 which evidences that loan: 1.8310%, or an interest in \$65,000.00 of the principal amount
15 of such loan.

16 **Cornman Toltec 160, LLC.** That certain Promissory Note Secured by Deed of
17 Trust, dated June 24, 2005, in the original principal amount of \$5,400,000.00. The loan
18 evidenced by the foregoing note shall be referred to as the "Cornman Toltec Loan." The
19 Cornman Toltec Loan is secured by real property located in the State of Arizona. As of
20 June 1, 2007, the total amount due under such note, exclusive of attorneys' fees and other
21 possible costs due under such note or loan documents in relation to such note, was
22 \$7,508,118.00. Such amount consists of the following: unpaid principal in the amount of
23 \$6,375,000.00; unpaid interest in the amount of \$772,444.00; and unpaid late charges of
24 \$360,674.00. Compass holds the following fractional interest in the Cornman Toltec Loan
25 and the note which evidences that loan: 0.0784%, or an interest in \$5,000.00 of the
26 principal amount of such loan.

1 **Southern California Land 2nd.** That certain Promissory Note Secured by Deed
 2 of Trust, dated August 3, 2005, in the original principal amount of \$2,300,000.00. This
 3 loan was secured by a junior second deed of trust on real property located in the State of
 4 California. On July 5, 2007, the senior trust deed foreclosed, and this loan became a
 5 “foreclosed junior.” As of June 1, 2007, the total amount due under such note, exclusive
 6 of attorneys’ fees and other possible costs due under such note or loan documents in
 7 relation to such note, was \$3,048,627.93. Such amount consists of the following: unpaid
 8 principal in the amount of \$2,800,000.00; unpaid interest in the amount of \$99,869.36;
 9 and, unpaid late charges of \$148,758.57. Compass holds the following fractional interest
 10 in the Southern California Land 2nd Loan and the note which evidences that loan:
 11 1.2500%, or an interest in \$35,000.00 of the principal amount of such loan.

12 **Barusa.** That certain Promissory Note Secured by Deed of Trust, dated November
 13 24, 2003, in the original principal amount of \$12,580,000. This loan is secured by a deed
 14 of trust on real property located in the State of California. As of June 1, 2007, the total
 15 amount due under such note, exclusive of attorneys’ fees and other possible costs due
 16 under such note or loan documents in relation to such note, was \$17,953,874.84. Such
 17 amount consists of the following: unpaid principal in the amount of \$15,300,000.00;
 18 unpaid interest in the amount of \$1,429,664.55; unpaid late charges of \$841,710.29; and
 19 unpaid extension fees in the amount of \$382,500.00. Compass holds the following
 20 fractional interest in the Barusa Loan and the note which evidences that loan: 0.0654%, or
 21 an interest in \$10,000.00 of the principal amount of such loan.

22 **Fiesta Oak Valley.** That certain Promissory Note Secured by Deed of Trust, dated
 23 June 15, 2004, in the original principal amount of \$20,500,000.00. This loan is secured by
 24 a deed of trust on real property located in the State of California. As of June 1, 2007, the
 25 total amount due under such note, exclusive of attorneys’ fees and other possible costs due
 26 under such note or loan documents in relation to such note, was \$33,844,708.93. Such
 27

1 amount consists of the following: unpaid principal in the amount of \$20,500,000.00;
2 unpaid interest in the amount of \$11,756,974.59; and, unpaid late charges of
3 \$1,587,734.34. Compass holds the following fractional interest in the Fiesta Valley Loan
4 and the note which evidences that loan: 0.0463%, or an interest in \$9,500.00 of the
5 principal amount of such loan.

6 Compass holds the personal guaranties of Joseph D. Milanowski ("Milanowski")
7 under which he unconditionally guaranteed payment of each of the Notes. Each of the
8 guaranties is summarized below and collectively they are called the "Guaranties." Each of
9 the Guaranties was in the files and records transferred to Compass at the time of the
10 closing of the purchase by Compass of the Loan Servicing rights and other assets.
11 Compass holds the original of each of the Guaranties.

12 (a) **Bundy Canyon.** That certain Guaranty dated as of September 28, 2005,
13 executed by Milanowski.

14 (b) **Copper Sage Commerce Center Phase II.** That certain Unconditional
15 Repayment and Completion Guaranty dated as of June 9, 2004, executed by Milanowski.

16 (c) **Cornman Toltec 160, LLC.** That certain Unconditional Guaranty dated as
17 of June 24, 2005, executed by Milanowski.

18 (d) **Southern California Land 2nd.** That certain Unconditional Guaranty dated
19 as of August 3, 2005, executed by Milanowski.

20 (e) **Barusa.** That certain Unconditional Guaranty dated as of November 24,
21 2003, executed by Milanowski.

22 (f) **Fiesta Oak Valley.** That certain Guaranty dated as of June 15, 2004,
23 executed by Milanowski.

24 On or about May 15, 2007, a certain group calling themselves the "Lenders
25 Protection Group" sent out notices to borrowers on certain loans for which Compass had
26 acquired the servicing rights in the USA Bankruptcy Cases. Such notices purported to
27

1 replace Compass as the loan servicer. In the USA Bankruptcy Cases, Compass thereafter
2 filed, on May 25, 2007, a "Motion of Compass Financial Partners LLC for Order Pursuant
3 to 11 U.S.C. Sections 105 and 1141 Enforcing Confirmation Order and for Civil Contempt
4 Sanctions" (the "Motion"). A hearing took place in the USA Bankruptcy Cases on May
5 31, 2007 before the Hon. Linda B. Riegler, the Bankruptcy Judge sitting in the USA
6 Bankruptcy Cases. On or about June 26, 2007, an order was entered in the USA
7 Bankruptcy Cases (the "June 26 Order"). In the June 26 Order, it was ordered that
8 pending further order of the Bankruptcy Court, the status quo as of May 15, 2007 is
9 preserved such that Compass shall be and shall remain the loan servicer with respect to all
10 loans for which it acquired servicing rights pursuant to the APA. It was further ordered
11 that, pending further order of the Bankruptcy Court, all amounts due and owing under and
12 in connection with the loans that were the subject of the APA shall continue to be paid to
13 Compass.

14 Since entry of the June 26 Order, there has been no further order entered by the
15 Bankruptcy Court or to Compass' knowledge by any other court of competent jurisdiction
16 with respect to the rights of Compass to service the Loans.

17 On June 20, 2007, the Bankruptcy Court in the USA Bankruptcy Cases conducted a
18 further continued hearing on the Motion of Compass. The Bankruptcy Court made an oral
19 ruling after such further hearing on the Motion, but to Compass' knowledge and belief no
20 further order has yet been signed by the Court in connection with the Motion. Compass'
21 counsel has submitted to the Court a form of order which they believe is consistent with
22 the oral ruling of the Court. Part of that order is that, consistent with the June 26 Order,
23 pending further order of the Bankruptcy Court, Compass shall be and shall remain the loan
24 servicer with respect to the Loans, and that all amounts due and owing under and in
25 connection with the Loans shall continue to be paid to Compass.
26
27

1 With the June 26 Order entered by the Bankruptcy Judge in the USA Bankruptcy
2 Cases, and with the oral ruling of the Court on June 20, 2007, Compass is the only servicer
3 entitled to service the Loans and take actions to pursue collection of the Loans. As a result
4 of the hearing on June 20, 2007, the only restriction on such rights to service the Loans is
5 that prior to August 17, 2007, Compass shall not complete a foreclosure sale of any real
6 property without an order of the Bankruptcy Court. Other than that restriction, it is
7 Compass and only Compass that has the rights to service the Loans and to pursue all rights
8 in connection with the Loans.

9 The Copper Sage Loan is secured by real property located in the State of Nevada.
10 The servicing operations of Compass with respect to the Copper Sage Loan are now being
11 operated out of Compass' New York office.

12 The Cornman Toltec Loan is secured by real property located in the State of
13 Arizona. Compass is servicing this loan out of Compass' New York office.

14 The other four loans that comprise the Loans are secured by real property located in
15 the State of California. On or about May 18, 2007, Compass entered into a Subservicing
16 Agreement with Howard Zisblatt ("Zisblatt") with respect to the loans purchased under the
17 APA where such loans are secured by real property located in the State of California
18 ("California Loans"). Such agreement is hereinafter called the "Subservicing Agreement".
19 Zisblatt holds a real estate broker's license issued by the California Department of Real
20 Estate and is duly licensed to conduct a commercial mortgage loan servicing business to
21 the extent that the conduct or operation of Compass' loan servicing is subject to such
22 licensing with respect to the California Loans. Each of the California Loans is and was
23 covered by the Subservicing Agreement.

24 On or about June 19, 2007, Compass FP Corporation, a Delaware corporation and
25 an affiliate of Compass, obtained its own license as a corporation from the California
26 Department of Real Estate.

1 Milanowski owes all of the amounts due on the Loans without any need for a
2 demand from Compass. Paragraph two of each of the Guaranties provide that Milanowski
3 binds himself “the same as if the Guarantor had contracted for payment thereof rather than
4 the Borrower.” As part of the Guaranties, it is further provided that Milanowski agrees to
5 be bound by and to perform all of the terms of all of the Notes. In paragraph two of the
6 Guaranties, Milanowski waived any right to require Lender to first proceed against the
7 borrower on the Loans, any right to require Lender to exhaust collateral, and also waived
8 “any right to require demand, protest, or receive notice of any kind including presentment,
9 demand for performance or notice of non-performance, notice of dishonor”

10 **6. Milanowski**

11 ***Petitioner and Creditor claims***

12 a. Joseph Milanowski (“Milanowski”) disputes the amount claimed, as the face
13 of the note is for 20% per annum and not 25% per annum as set forth in the claim.

14 b. The terms of a \$58,000,000 pledge agreement dated May 31, 2006 between
15 Milanowski, USACM and Diversified (the “Pledge Agreement”) allowed Milanowski and
16 USA Investment Partners (“USAIP”) one year within which to make a payment of
17 \$20,000,000 to USACM Trust and Diversified. On the condition USAIP made the
18 payment USACM and Diversified agreed to forebear collection on the pledge and the
19 \$55,000,000 10-90 loan from Diversified in exchange for the additional collateral pledged.
20 USACM Trust and Diversified breached the Pledge Agreement by filing this involuntary
21 petition and the involuntary petition against USA Investment Partners, prior to the
22 expiration of the one year time period. The breach of the Pledge Agreement discharged
23 Milanowski from his guaranty obligations under the Pledge Agreement, the \$55,000,000
24 loan from Diversified and the \$7,000 loan from USACM Trust. Therefore, there is a bona
25 fide dispute regarding claims asserted by USACM Trust and Diversified.
26
27

1 c. The claims are fully or partially secured and are guaranteed by certain third
2 party guarantors. The creditors could resort to the collateral and the guaranties to satisfy
3 the claims in full or significantly reduce the amount of the claims. Therefore, these claims
4 are contingent claims under §303(b).

5 d. Also, the Nevada Mortgage Lending Division (“MLD”) has revoked the
6 mortgage broker licenses for both USACM Trust and Compass Financial Partners, LLC
7 and Compass USA SPE, LLC (“Compass”) therefore these parties cannot act as servicers
8 and have no authority under the laws of the State of Nevada to assert claims on behalf of
9 their respective lenders therefore and do not have standing to file the petition for relief in
10 this case.

11 e. Further, these creditors do not have a power of attorney under the loan
12 documents authorizing the creditors to file this involuntary petition. and apply default
13 interest and to determine application of payments with regard to default interest and late
14 fees. Therefore, the creditors do not have standing as creditors under §303(b) of the
15 Bankruptcy Code.

16 The authority resides specifically with the Direct Lenders under the Promissory
17 Notes, and USACM Trust and Compass have no authority under any servicing agreement
18 to override the application of payments in the Promissory Note and therefore do not have
19 standing to assert a claim under 303(b).

20 In addition, the Investors VI claim is fully secured and the sale of the property will
21 satisfy the claim in full. The USAIP trustee has filed a motion to sell the property which
22 requests the court approve the sale of the collateral which will provide sufficient funds to
23 pay these claims regardless of any disputes.

24 Milanowski does not have sufficient information to determine the specific amount
25 of Compass’ claim because there is not adequate information as to how Compass
26 calculated the amount of its clam or how it determined its participation amount.
27

Also Milanowski does not have sufficient information and therefore disputes the liability regarding the \$7,000 loan from USACM Trust as to liability and the amount and will review the documents supporting the claim and will supplement this response at that time.

Milanowski was generally paying his debts as such debts became due.

II. STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1334. The matter has been referred to this Court by the District Court and is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. § 1408.

III. STIPULATED FACTS

Milanowski does not object to the Court finding the allegations set forth in the declarations of the petitioning creditors as accurate for purposes of the trial on the involuntary petition.

IV. FACTUAL ISSUES TO BE TRIED

The following are the issues of fact to be tried and determined upon trial:

A. On behalf of Petitioners

1. Does Milanowski have fewer than 12 holders of eligible claims?
2. If yes, Milanowski has *fewer* than twelve eligible creditors:
 - a. Is at least one of the Petitioners the holder of a claim against Milanowski that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount?
 - b. Do the claims of the one or more eligible petitioning creditor(s) aggregate at least \$12,300 more than the value of any lien on property of Milanowski securing such claims held by the holder(s) of such claims?

1 3. If no, Milanowski has *more* than twelve eligible creditors:

2 a. Are at least three of the Petitioners the holders of claims
3 against Milanowski that are not contingent as to liability or the subject of a bona fide
4 dispute as to liability or amount?

5 b. Do the claims of the three or more eligible petitioning creditors
6 aggregate at least \$12,300 more than the value of any lien on property of Milanowski
7 securing such claims held by the holders of such claims?

8 4. In determining the eligibility of the Petitioners:

9 a. Is Compass ineligible to file the petition because it is not
10 licensed to service loans with the Mortgage Lending Division of the State of Nevada and
11 is instead servicing loans out of New York?

12 b. Is the Trust ineligible to file the petition because it is not
13 licensed to service loans with the Nevada Mortgage Lending Division of the State of
14 Nevada and is instead servicing loans by virtue of the authority to do so granted by this
15 Court in the Second Order?

16 c. Are the various guaranties relied upon by Petitioners
17 contingent liabilities unless and until the remedies against the obligors or third party
18 guarantors on the guaranteed obligations are exhausted and any collateral for the
19 guaranteed obligations exhausted?

20 d. Does the fact that certain of the underlying obligations,
21 guaranteed by the various guaranties relied upon by Petitioners, are supported by liens
22 upon collateral render those guaranties contingent liabilities even though the guaranties are
23 unsecured?

24 e. Did the filing of the involuntary petitions against USAIP on
25 April 4, 2007 and against Milanowski on May 29, 2007, discharge Milanowski on his
26

1 guaranty for the 10-90 Loan and/or discharge Milanowski on the liability to pay some
2 \$7,000 to USACM?

3 f. If certain amounts of the obligations underlying the various
4 guaranties relied upon by Petitioners are disallowed by this Court or another court, such as
5 default interest asserted against a borrower that is a chapter 11 debtor, is Milanowski
6 nonetheless liable for payment of those amounts under the guaranties?

7 5. Is Milanowski generally paying his debts as such debts become due
8 unless such debts are the subject of a bona fide dispute as to liability or amount?

9 **B. On behalf of Milanowski**

10 1. See IV(A) above.

11 **V. LEGAL ISSUES**

12 The following are the legal issues of fact to be tried and determined upon trial:

13 **A. On behalf of Petitioners**

14 1. If Milanowski disputes only one component of the amounts claimed
15 by a Petitioner, for example, the manner of the calculation of interest on an undisputed
16 principal balance, is the holder of this largely undisputed claim ineligible to be a
17 petitioning creditor?

18 2. To the extent that the issues denominated as factual issues in the
19 preceding section are not resolved based upon a reading of the operative transaction
20 documents and other relevant evidence, and instead turn on an interpretation of the law,
21 such issues constitute legal issues to be resolved by the Court.

22 **B. On behalf of Milanowski**

23 1. To the extent that the issues denominated as factual issues in the
24 preceding section are not resolved based upon a reading of the operative transaction
25 documents and other relevant evidence, and instead turn on an interpretation of the law,
26 such issues constitute legal issues to be resolved by the Court.

VI. EXHIBITS

The parties previously filed stipulations concerning the Petitioners' exhibits at Docket Nos. 125 (Compass), 124 (Fetterly), 123 (USACM Trust), and 122 (DTDF) and incorporate those stipulations by reference. The following exhibits may be marked for identification and received in evidence unless an objection is listed next to the exhibit.

A. On behalf of Petitioners

1. USACM Trust

Exhibit	Objection
1. Promissory Note Secured by a Deed of Trust dated December 10, 2004, with an original principal amount of \$27,500,000	None
2. Loan Agreement dated as of December 10, 2004	None
3. First Amendment to Loan Documents dated February 17, 2005	None
4. Second Amendment to Loan Documents dated April 12, 2005	None
5. Third Amendment to Loan Documents dated June 1, 2005	None
6. Fourth Amendment to Loan Documents dated July 13, 2005	None
7. Fifth Amendment to Loan Documents dated September 19, 2005	None
8. Sixth Amendment to Loan Documents dated November 3, 2005	None
9. Unconditional Guaranty (Placer 1)	None
10. Promissory Note Secured by a Deed of Trust dated December 10, 2004, with an original principal amount of \$6,500,000	None
11. Unconditional Guaranty (Placer 2)	None

	Exhibit	Objection
1		
2	12. Construction Loan Agreement dated as	None
3	of March 29, 2004	
4	13. Promissory Note Secured by Deed of	None
5	Trust dated March 29, 2004, in the	
6	original principal amount of	
7	\$10,466,000	
8	14. First Amendment to Loan Documents	None
9	dated August 6, 2004	
10	15. Second Amendment to Loan	None
11	Documents dated August __, 2004	
12	16. Third Amendment to Loan Documents	None
13	dated September 30, 2004	
14	17. Loan Extension Agreement dated as of	None
15	February 5, 2006	
16	18. Unconditional Repayment and	None
17	Completion Guaranty	
18	19. Demand letters	None
19	20. Motion For Order Approving	None
20	Agreement With Investment Partners	
21	[Docket No. 575] filed on June 9,	
22	2006, together with attached	
23	promissory note and security	
24	agreement	
25	21. Order Approving Agreement with	None
26	Investment Partners [Docket No. 946]	
27	filed on July 24, 2006	
28	22. Third Amended Chapter 11 Plan of	None
	Reorganization [Docket No. 1799]	
	filed on November 15, 2006	
	23. USACM Committee's Plan Documents	None
	Supplement And Disclosure [Docket	
	No. 2002] filed on December 8, 2006	
	24. Notice of Filing Asset Purchase	None
	Agreement dated December 8, 2006	
	[Docket No. 2164] filed on December	
	18, 2006	

	Exhibit	Objection
1		
2	25. Order Confirming the Debtors' Third	None
3	Amended Joint Chapter 11 Plan of	
4	Reorganization, as Modified Herein	
5	[Docket 2376] filed on January 8, 2007	
6	26. Findings of Fact and Conclusions of	None
7	Law In Support Of The "Order	
8	Confirming the 'Debtors' Third	
9	Amended Joint Chapter 11 Plan of	
10	Reorganization, as Modified Herein"	
11	[Docket No. 2377] filed on January 8,	
12	2007	
13	27. Notice of Effective Date of Confirmed	None
14	Plan [Docket No. 3083] filed on March	
15	13, 2007	
16	28. Notice of Filing: Estate Administration	None
17	and Liquidating Trust Agreement and	
18	Declaration of the Trust by and Among	
19	USA Commercial Mortgage Company,	
20	Debtor and Geoffrey L. Berman, as	
21	Liquidating Trustee [Docket No. 3335]	
22	filed on April 4, 2007	
23	29. Sample Loan Servicing Agreement –	None
24	Placer 1	
25	30. Sample Loan Servicing Agreement –	None
26	Placer 2	
27	31. Sample Loan Servicing Agreement –	None
28	Hotel Marquis	

2. DTDF

	Exhibit	Objection
1		
2	32. Loan Agreement dated as of April 10,	None
3	2002, between USA Investment	
4	Partners, LLC ("USAIP"), as	
5	borrower, and 10-90, Inc., as lender (as	
6	amended by the First Amendment	
7	referred to below, the "USAIP Loan	
8	Agreement")	
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	Exhibit	Objection
1		
2	33. Promissory Note dated as of April 10,	None
3	2002, made by USAIP as borrower in	
4	favor of 10-90, Inc. as lender (as	
	amended by the USAIP First	
	Amendment referred to below, the	
	“USAIP Note”)	
5	34. Guaranty dated as of April 10, 2002, in	None
6	favor of 10-90, Inc. as lender given by	
7	Joseph A. Milanowski (“Milanowski”),	
	as guarantor and Thomas A. Hantges	
	(“Hantges”) as guarantor (“Guaranty”)	
8	35. First Amendment to Loan Documents	None
9	dated as of October 6, 2003, between	
10	USAIP and 10-90, Inc. (the “USAIP	
	First Amendment”)	
11	36. Revolving Loan and Security	None
12	Agreement dated as of April 12, 2002,	
13	between 10-90, Inc., as borrower, and	
	DTDF, as lender (as amended by the	
	10-90 First Amendment referred to	
	below, the “10-90 Loan Agreement”)	
14	37. Promissory Note Secured by Deed of	None
15	Trust in the face amount of	
16	\$40,000,000 (later increased to	
17	\$75,000,000 pursuant to the 10-90	
18	First Amendment) dated April 12,	
	2002, executed by 10-90, Inc. in favor	
	of DTDF (as amended by the 10-90	
	First Amendment, the “10-90 Note”)	
19	38. First Amendment to Loan Documents	None
20	dated as of October 6, 2003, between	
	10-90, Inc. and DTDF (the “10-90	
	First Amendment”)	
21	39. Collateral Assignment of Beneficial	None
22	Interest dated as of April 12, 2002,	
23	between 10-90, Inc. as assignor and	
24	DTDF as assignee (the “DTDF	
25	Collateral Assignment”) whereby 10-	
26	90, Inc. as borrower collaterally	
27	assigned to DTDF all of the rights of	
28	10-90, Inc. as lender in the USAIP	
	Loan Documents	

	Exhibit	Objection
1		
2	40. Agreement for Transfer of Promissory	None
3	Note dated as of January 1, 2005,	
4	between 10-90, Inc. as transferor and	
5	DTDF as transferee and consented to	
6	by USAIP as the obligor on the note to	
7	be transferred, and Milanowski as	
8	guarantor and Hantges as guarantor,	
9	whereby 10-90, Inc. transferred to	
10	DTDF the USAIP Note and other	
11	USAIP Loan Documents (the	
12	"Transfer Agreement")	
13		
14	41. Default Letter dated as of August 7,	None
15	2006, from USACM to USAIP,	
16	Milanowski and Hantges formally	
17	notifying such parties of their defaults	
18	in connection with the 10-90 Loan	
19		
20	42. Joseph D. Milanowski's Response to	None
21	USA Capital Diversified Trust Deed	
22	Fund, LLC's and USACM Liquidating	
23	Trust's Interrogatories	

3. Nevada State Bank

	Exhibit	Objection
14		
15	43. Promissory Note executed by USA	None
16	Commercial Mortgage Company dated	
17	April 17, 2000	
18		
19	44. Commercial Guarantees executed by	None
20	Thomas A. Hantges and Joseph D.	
21	Milanowski dated April 24, 2000	
22		
23	45. Promissory Note for USA Commercial	None
24	Mortgage Company dated April 17,	
25	2000 and Commercial Guarantees	
26	executed by Joseph D. Milanowski and	
27	Thomas A. Hantges dated April 17,	
28	2001	
	46. Commercial Guaranty executed by the	None
	Thomas A. Hantges 1997 Trust dated	
	May 24, 2001	
	47. Promissory Note executed by USA	None
	Commercial Mortgage Company dated	
	May 17, 2002	

	Exhibit	Objection
1		
2	48. Letter to Joseph D. Milanowski from	None
3	Jim Rimpo dated October 1, 2002	
4	49. Letter to Joseph D. Milanowski from	None
5	Jim Rimpo dated May 15, 2003	
6	50. Letter to Thomas A. Hantges and	None
7	Joseph D. Milanowski dated December	
8	1, 2003	
9	51. Financial Statement Warranty dated	None
10	April 9, 2002 and Financial Statement	
11	Warranty dated July 30, 2003	
12	52. Promissory Note executed by USA	None
13	Commercial Mortgage Company dated	
14	June 17, 2003	
15	53. Letter to Thomas A. Hantges and	None
16	Joseph D. Milanowski from James	
17	Rimpo dated June 8, 2004	
18	54. Financial Statement Warranty dated	None
19	August 9, 2004 and Financial	
20	Statement Warranty dated November	
21	30, 2004	
22	55. Promissory Note executed by USA	None
23	Commercial Mortgage Company dated	
24	July 17, 2004	
25	56. Letter to Thomas A. Hantges and	None
26	Joseph D. Milanowski from James	
27	Rimpo dated July 14, 2005	
28	57. Financial Statement Warranty, 2004	None
	58. Business Loan Agreement executed by	None
	USA Commercial Mortgage Company	
	dated August 3, 2005	
	59. Promissory Note executed by USA	None
	Commercial Mortgage Company dated	
	August 3, 2005	
	60. Letter to Joseph D. Milanowski from	None
	C.N. Hainsworth dated June 5, 2006	
	with attached Commercial Guaranty	

	Exhibit	Objection
61.	Letter to Thomas A. Hantges from C.N. Hainsworth dated June 5, 2006 with attached Commercial Guaranty	None

4. Fetterly

	Exhibit	Objection
62.	Promissory Note dated September 27, 2004, in the original principal amount of \$560,000; Change in Terms Agreement dated September 27, 2005; Assumption Agreement and Modification dated December 27, 2005; Change in Terms Agreement dated December 27, 2005; Change in Terms Agreement dated March 27, 2006	None
63.	Promissory Note dated September 27, 2004, in the original principal amount of \$800,000; Change in Terms Agreement dated September 27, 2005; Assumption Agreement and Modification dated December 27, 2005; Change in Terms Agreement dated December 27, 2005; Change in Terms Agreement dated March 27, 2006	None
64.	Promissory Note dated September 27, 2004, in the original principal amount of \$685,0000; Change in Terms Agreement dated September 27, 2005; Assumption Agreement and Modification dated December 27, 2005; Change in Terms Agreement dated December 27, 2005; Change in Terms Agreement dated March 27, 2006	None
65.	Promissory Note dated March 8, 2005, in the original principal amount of \$250,000; Change in Terms Agreement dated March 8, 2006	None
66.	Promissory Note dated March 8, 2005, in the original principal amount of \$239,500	None

	Exhibit	Objection
1		
2	67. Promissory Note dated March 8, 2005,	None
3	in the original principal amount of	
4	\$212,500; Change in Terms	
5	Agreement dated March 8, 2006	
6	68. Commercial Guaranty dated March 8,	None
7	2005, by Joseph D. Milanowski	
8	69. Commercial Guaranty dated December	None
9	27, 2005, by Joseph D. Milanowski	
10	70. Commercial Guaranty dated March 8,	None
11	2006, by Joseph D. Milanowski 1998	
12	Trust	
13	71. Documents evidencing assignment	None
14	from Vineyard Bank to NV Hesperia	
15	Investors, LLC	

5. Compass

	Exhibit	Objection
16		
17	72. Order Re: Emergency Motion of	None
18	Compass Financial Partners LLC For	
19	Order Pursuant to 11 U.S.C. §§ 105	
20	and 1141 Enforcing Confirmation	
21	Order and for Civil Contempt	
22	Sanctions, entered June 26, 2007	
23	73. Promissory Note Secured by Deed of	None
24	Trust, dated September 28, 2005, in the	
25	original principal amount of	
26	\$4,050,000.00, made and delivered by	
27	Bundy Canyon Land Development,	
28	LLC, a California limited liability	
29	company, in favor of the persons listed	
30	on Exhibit A to the note	
31	74. Promissory Note Secured by Deed of	None
32	Trust, dated March 1, 2006, in the	
33	original principal amount of	
34	\$3,550,000.00, made and delivered by	
35	Copper Sage Commerce Center, LLC,	
36	a Nevada limited liability company, in	
37	favor of the persons listed on Exhibit A	
38	to the note	

	Exhibit	Objection
1		
2	75. Promissory Note Secured by Deed of	None
3	Trust, dated June 24, 2005, in the	
4	original principal amount of	
5	\$5,400,000.00, made and delivered by	
6	Cornman Toltec 160, LLC, a Nevada	
7	limited liability company, in favor of	
8	the persons listed on Exhibit A to the	
9	note	
10		
11	76. Promissory Note Secured by Deed of	None
12	Trust, dated August 3, 2005, in the	
13	original principal amount of	
14	\$2,300,000.00, made and delivered by	
15	Southern California Land	
16	Development, LLC, a California	
17	limited liability company, in favor of	
18	the persons listed on Exhibit A to the	
19	note	
20		
21	77. Promissory Note Secured by Deed of	None
22	Trust, dated November 24, 2003, in the	
23	original principal amount of	
24	\$12,580,000.00, made and delivered	
25	by Barusa, LLC, a California limited	
26	liability company, in favor of the	
27	persons listed on Exhibit A to the note	
28		
	78. Promissory Note Secured by Deed of	None
	Trust, dated June 15, 2004, in the	
	original principal amount of	
	\$20,500,000.00, made and delivered	
	by Oak Mesa Investors, LLC, a	
	California limited liability company, in	
	favor of the persons listed on Exhibit A	
	to the note	
	79. Guaranty dated as of September 28,	None
	2005, executed by Milanowski in favor	
	of those persons listed on Exhibit A to	
	the guaranty, in connection with loan	
	of up to \$5,000,000.00 to Bundy	
	Canyon Land Development, LLC, a	
	California limited liability company	

	Exhibit	Objection
1		
2	80. Unconditional Repayment and	None
3	Completion Guaranty dated as of June	
4	9, 2004, executed by Milanowski in	
5	favor of those persons listed on Exhibit	
6	A to the guaranty, in connection with	
7	loan of up to \$4,000,000.00 to Copper	
8	Sage Commerce Center, LLC, a	
9	Nevada limited liability company	
10		
11	81. Unconditional Guaranty dated as of	None
12	June 24, 2005, executed by	
13	Milanowski in favor of those persons	
14	listed on Exhibit A to the guaranty, in	
15	connection with loan not to exceed	
16	\$6,550,000.00 to Cornman Toltec 160,	
17	LLC, a Nevada limited liability	
18	company	
19		
20	82. Unconditional Guaranty dated as of	None
21	August 3, 2005, executed by	
22	Milanowski in favor of those persons	
23	listed on Exhibit A to the guaranty, in	
24	connection with loan not to exceed	
25	\$3,000,000.00 to Southern California	
26	Land Development, LLC, a California	
27	limited liability company	
28		
	83. Unconditional Guaranty dated as of	None
	November 24, 2003, executed by	
	Milanowski in favor of those persons	
	listed on Exhibit A to the guaranty, in	
	connection with loan not to exceed	
	\$15,300,000.00 to Barusa, LLC, a	
	California limited liability company	
	84. Guaranty dated as of June 15, 2004,	None
	executed by Milanowski in favor of	
	those persons listed on Exhibit A to the	
	guaranty, in connection with loan of	
	\$20,500,000.00 to Oak Mesa Investors,	
	LLC, a California limited liability	
	company	
	85. California license information of	None
	Compass FP Corp., taken from the	
	records of the California Department	
	of Real Estate on July 19, 2007	

	Exhibit	Objection
1	86. Trustee's Deed Upon Sale recorded	None
2	July 11, 2007 in the Official Records	
3	of the County of San Bernardino,	
4	Document Number 2007-0407647	
5	87. Loan Servicing Agreement – Bundy	None
6	Canyon – Davis, Joe	
7	88. Loan Servicing Agreement – Copper	None
8	Sage Commerce Center Phase II –	
9	Hertz, Murray	
10	89. Loan Servicing Agreement – Cornman	None
11	Toltec – Brill, Gary TTEE	
12	90. Loan Servicing Agreement – Barusa –	None
13	Janssen, Robert	
14	91. Loan Servicing Agreement – Oak	None
15	Valley – DeBerry, Tracy	
16	92. Loan Servicing Agreement – Southern	None
17	California 2d – Nelson, James S.	
18	93. Supplemental Order Re: Emergency	None
19	Motion for Compass for Order	
20	Pursuant to Sections 105 and 1141	
21	Enforcing Confirmation Order and for	
22	Civil Contempt Sanctions, entered	
23	August 1, 2007	

B. On behalf of Milanowski

1. USACM

	Exhibit	Objection
19	A. Appraisals regarding value of	The value of the collateral is not relevant.
20	collateral for Placer Vineyards 1 Loan	Any such appraisal would be inadmissible
21		hearsay, without foundation.
22	B. Appraisals regarding value of	The value of the collateral is not relevant.
23	collateral for Placer Vineyards 2 Loan	Any such documents would be inadmissible
24		hearsay, without foundation.

2. DTDF

	Exhibit	Objection
25	C. Debtor's Motion for Order (i)	Not relevant, but no objection to the Court
26	Approving Sales Protections to Aphm	taking judicial notice of any pleadings in the
27	Zoso, LLC, a Delaware Limited	<i>USA Investors VI, LLC</i> case.
28	Liability Company, as Provided for in	

- 1 Agreement for Purchase and Sale of
 2 Real Estate (and Joint Escrow
 3 Instructions); (ii) Approving
 4 Procedures for Soliciting Higher and
 5 Better Offers, and Determining
 6 Highest and Best Offer; (iii) Setting
 7 Hearing to Select Highest and Best
 8 Offer, and to Approve Sale of Assets
 9 and the Assumption and Assignment of
 10 Lease and Executory Contracts; and
 11 (iv) Granting Other Relief and
 12 Preliminary Report of Marketing, Case
 13 No. 07-12377, dated July 17, 2007,
 14 Docket No. 135
- 15 D. Motion to Approve Settlement
 16 Agreement Pursuant to Fed.R. Bankr.
 17 P.9019, Case No. 07-12694 file
 18 6/12/07, Docket #353

Not relevant, but no objection to the Court
 taking judicial notice of any pleadings in the
HMA Sales, LLC case.

3. Nevada State Bank

Exhibit

Objection

- 15 E. Plaintiff's Opposition to Motion to
 16 Dismiss Pursuant to Rule 12(b)(5);
 17 Counter-Motion for Summary
 18 Judgment Against All Defendants,
 19 dated 9/29/06, Case No.06-A-524578-
 20 C
- 21 F. Special Appearance of Thomas A.
 22 Hantges and Thomas A. Hantges 1997
 23 Trust, and Reply to Opposition to
 24 Motion to Dismiss Pursuant to Rule
 25 12(b)(5) Opposition to Motion for
 26 Summary Judgment, dated 10/05/06,
 27 Case No. 06-A-524578
- 28 G. Order Denying Plaintiff's Counter-
 Motion for Summary Judgment in Part,
 dated November 2, 2006, Case No, 06-
 A-524578
- H. Motion for Relief from Order and
 Memorandum in Support of Motion for
 Relief from Order, dated 12/22/06.
 Case No. 06-A-524578,

Not relevant; reserve the right to object
 on the ground of authenticity

Not relevant; reserve the right to object
 on the ground of authenticity

Not relevant; reserve the right to object
 on the ground of authenticity

Not relevant; reserve the right to object
 on the ground of authenticity

- | | | | |
|---|----|---|---|
| 1 | I. | Minute Entry of District Court of Clark County and proposed Order Granting Motion Setting Aside Summary Judgment dated 4/10/07, Case No. 06-A-524578-C, | Not relevant; reserve the right to object on the ground of authenticity |
| 2 | | | |
| 3 | | | |
| 4 | J. | Order Granting Defendant Joseph Milanowski's Motion for Relief from Order, Case No. 06-A-524578 | Not relevant; reserve the right to object on the ground of authenticity |
| 5 | | | |
| 6 | | | |

4. Other Exhibits

Exhibit

Objection

- | | | | |
|----|----|---|------|
| 8 | K. | Brief in Response to Supplemental Memorandum of Law in Support of Emergency Motion of Compass Financial Partners LLC for Order Pursuant to 11 USC Sections 105 and 1141 Enforcing Confirmation Order and for Civil Contempt Sanction, Case No. 06-10725, dated 6/14/07, Docket No. 3993 | None |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | L. | Minute Entry regarding continued hearing on Motion by Lender Protection Group regarding servicing rights, Case No. 06-10725, dated 6/20/07, Docket No. 4033 | None |
| 15 | | | |
| 16 | | | |
| 17 | | | |

5. Compass

Exhibit

Objection

- | | | | |
|----|----|---|--|
| 19 | M. | State of Nevada Department of Business and Industry, Mortgage Lending Division's Notice to Court of Regulatory Developments dated May 30, 2007, Case No. 06-10725, dated 5/30/07, Docket No. 3852 | Not relevant |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | N. | Appraisal regarding value of collateral for Bundy Canyon claim | The value of the collateral is not relevant. Any such appraisal would be inadmissible hearsay, without foundation. |
| 24 | | | |
| 25 | O. | Appraisal regarding value of collateral for Copper Sage Commerce Center Phase II claim | The value of the collateral is not relevant. Any such appraisal would be inadmissible hearsay, without foundation. |
| 26 | | | |
| 27 | | | |

- | | | | |
|---|----|---|--|
| 1 | P. | Appraisal regarding value of collateral
for Cornman Toltec 160, LLC claim | The value of the collateral is not relevant.
Any such appraisal would be inadmissible
hearsay, without foundation. |
| 2 | | | |
| 3 | Q. | Appraisal regarding value of collateral
for Southern California Land 2 nd claim | The value of the collateral is not relevant.
Any such appraisal would be inadmissible
hearsay, without foundation. |
| 4 | | | |
| 5 | R. | Appraisal regarding value of collateral
for Barusa claim | The value of the collateral is not relevant.
Any such appraisal would be inadmissible
hearsay, without foundation. |
| 6 | | | |
| 7 | S. | Appraisal regarding value of collateral
for Fiesta Oak Valley claim | The value of the collateral is not relevant.
Any such appraisal would be inadmissible
hearsay, without foundation. |
| 8 | | | |
| 9 | | | |

VII. DEPOSITIONS

A. On behalf of Petitioners

The parties agree that the testimony of witnesses shall be received by declaration, subject to cross-examination either at trial or in deposition. Petitioners will file the depositions of each of the witnesses not later than August 3, 2007. The following witnesses will not be present at trial. The opposing party was free to depose them on July 23 or 25, 2007 and did not do so.

(1) Lynn L. Fetterly, NV Hesperia Investors, LLC, P.O. Box 5986,
549 Ponderosa Avenue, Incline Village, Nevada 89450

(2) David Blatt, Compass Financial Partners LLC

B. On behalf of Milanowski

(1) None

VIII. WITNESSES

The following witnesses may be called by the parties upon trial.

A. On behalf of Petitioners

(1) Geoffrey L. Berman, Trustee, USACM Liquidating Trust c/o
Lewis and Roca LLP, 3993 Howard Hughes Parkway, Suite
600, Las Vegas, Nevada 89169

(2) Chas Harvick, DTFD

(3) James Rimpco, Nevada State Bank

(4) C.N. Hainsworth, Nevada State Bank

B. On behalf of Milanowski

1. Geoffrey L. Berman, Trustee, USACM Liquidating Trust c/o Lewis and Roca LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169
2. Chas Harvick, DTFD
3. James Rimpco, Nevada State Bank
4. C.N. Hainsworth, Nevada State Bank

IX. TRIAL DATE

This matter will be heard at a bench trial on August 9, 2007 at 9:30 a.m.

X. TRIAL LENGTH

The parties agree that the trial shall take one day or less.

APPROVED AS TO FORM AND CONTENT:

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BULLIVANT HOUSER BAILEY PC

By: /s/ Georganne W. Bradley (NV 1105)
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Las Vegas, NV 89169
Attorneys for Petitioning Creditors Compass
Financial Partners LLC and Compass USA SPE LLC

XI. ACTION BY THE COURT

A. This case is set down for bench trial on the August 9, 2007 at 9:30 a.m.

B. An original and 2 copies of each trial brief shall be submitted to the clerk on
or before _____

C. **Court trials.** Proposed findings of facts and conclusions of law shall be
filed on or before _____.

The foregoing pretrial order has been approved by the parties to this action as
evidenced by the signatures of their counsel hereon, and the order is hereby entered and
will govern the trial in this case. This order shall not be amended except by order of the
court pursuant to agreement of the parties or to prevent manifest injustice.

DATED _____.

Hon. Linda B. Riegle
United States Bankruptcy Judge
District Of Nevada